

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814
September 16, 1986



ALL COUNTY WELFARE LETTER NO. 86-90

TO: ALL COUNTY WELFARE DIRECTORS

REFERENCES: ALL COUNTY LETTER NO. 86-45, ALL COUNTY WELFARE DIRECTOR MEDS TRANSMITTAL OF JUNE 10, 1986, ALL COUNTY LETTER NO. 86-55, ALL COUNTY LETTER NO. 86-84

SUBJECT: RUTAN v. McMAHON

All County Letter No. 86-84 informed you of the Rutan v. McMahon court order and transmitted a copy of the required lump sum informing notice.

The purpose of this letter is to provide specific instructions regarding the implementation of the Rutan v. McMahon court order. The August 20, 1986 court order enjoins the department from: (1) applying the lump sum regulations (MPP 44-207.4) to recipients who do not receive a written explanation of the rule prior to receipt of the lump sum income; and (2) recouping overpayments resulting from application of the lump sum regulations without such explanation. The order also requires recalculation of periods of ineligibility for affected cases still currently in a period of ineligibility. This court order applies to all AFDC and Refugee (RCA, ECA, and RDP) cases. However, for Foster Care cases, the informing notice is not required when the county is the payee for the lump sum income.

Attached are the following materials:

1. A reproducible Spanish version of the written notice explaining the lump sum rule, TEMP 1683(Sp)(8/86).
2. Detailed implementing instructions.
3. Reproducible English/Spanish versions of the notice to be sent to the identified former recipient, TEMP 1683A(9/86), TEMP 1683A(Sp)(9/86).
4. Reproducible English/Spanish versions of the Rutan Certification, TEMP 1683B(9/86), TEMP 1683B(Sp)(9/86).

Reproducible copies of the informing notice (TEMP 1683) in Vietnamese, Laotian, Cambodian, and Chinese and the necessary notices of action messages will be forthcoming.

If you have any questions, please contact Cindy Wong Lan, AFDC Policy Bureau, at (916) 324-2158.


ROBERT A. HOREL
Deputy Director

Attachments

cc: CWDA

IMPLEMENTING INSTRUCTIONS
(Rutan v. McMahon)

1. Counties must cease applying MPP Section 44-207.4 to applications on which no action has been taken on or after August 25, 1986, and for ongoing cases as of September 1, 1986.

If a case was discontinued effective August 31, 1986 due to the receipt of lump sum income, that action must be treated as income in the month received and budgeted accordingly.

Example 1: If a family received a lump sum payment in July 1986, and the first month of the period of ineligibility began on September 1, 1986, September is considered a suspense month pursuant to MPP Section 44-315.61 and the period of ineligibility must be rescinded.

Example 2: If a family received a lump sum in August 1986, and the period of ineligibility is to begin on October 1, 1986, October is considered a suspense month and no period of ineligibility is computed.

In all cases, property values should be verified for the first of the month following suspension, prior to resuming aid.

2. Counties must cease all recoupment activity for overpayments caused by the receipt of lump sum income as of August 20, 1986 (for recoupments being made by grant adjustment, this would apply beginning with the September grant).
3. Counties must identify the following cases by October 15, 1986:

- a. All cases that have been denied or discontinued due to lump sum income as of April 2, 1982 and are still currently in a period of ineligibility.

For example, counties may want to identify the above cases by:
(1) identifying former cases with lump sum or excess income discontinuance codes; and (2) comparing these cases to the ongoing case-load. The cases not currently receiving aid would be the "identified cases." Counties may use another process for identifying these cases and may "over identify" cases for the purpose of sending the Rutan notice.

- b. All cases where overpayments were incurred due to the application of MPP 44-207.4 and have not been repaid as of August 20, 1986.

4. Counties must attempt to contact all identified cases still currently in a period of ineligibility by sending the attached contact notice (TEMP 1683A) and offer to conduct a face-to-face interview advising the former recipient of the Rutan order:
 - a. For all identified cases that were denied or discontinued between April 2, 1982 and February 28, 1985, counties must send the contact notice only if the former recipient's address is readily available. Readily available means exhausting county records (e.g., current MEDS file, current recipient food stamps file, warrant registers used at the time the case was discontinued, etc.) but not going into the case record to search for the address;
 - b. For all identified cases that were denied or discontinued from March 1, 1985 forward, counties must send the contact notice.

Counties must have the option to print on the notice only that method of contact the former recipient is to follow. The purpose of the interview is to explain the impact of the Rutan order and to help the former recipient determine if he/she should apply for benefits. The contact notice must be sent to the identified cases by November 1, 1986.
5. The following applies to all cases currently in a period of ineligibility whether identified by the county or as a result of a former recipient contacting the county welfare office:
 - a. The claimant is required to complete the CA 2 and must be determined to be otherwise eligible in order for benefits to be restored (e. g., property limits). The work registration requirement does not apply with respect to restoring cases back to September 1, 1986. The beginning date of aid for these restored cases will be September 1, 1986.
 - b. Counties must first determine whether the former recipient spent some or all of the lump sum income prior to receiving the notice of action discontinuing the case due to the lump sum income. Claimants must sign a statement under penalty of perjury declaring how much of the lump sum income had been spent. However, if a claimant is unable to provide the necessary information to show how the lump sum income was spent, the claimant's declaration is sufficient evidence. A Rutan certification (TEMP 1683B) is attached for your use. The county will need to complete the date and the total amount of lump sum that was received on the certification form.

- c. Once the county has determined how much of the lump sum income the claimant had available after receiving the notice of action discontinuing aid due to the lump sum rule, the county must then recalculate the lump sum period of ineligibility by taking into account only the amount of income that was determined available. The MBSAC used in the recalculation is the MBSAC table amount in effect at the time the original discontinuance notice of action was sent.
 - d. If the remaining lump sum period of ineligibility is:
 - (1) No remaining period of ineligibility: The county must determine if the claimant was otherwise eligible for federal AFDC as of September 1, 1986;
 - (2) Three (3) months or less: The county must determine if the claimant is otherwise eligible for State-only AFDC-U pursuant to the Shaw court order.
 - (3) More than three (3) months: The county must offer the claimant a choice of when to apply for State-only AFDC-U pursuant to the Shaw court order.
- 6. Counties must complete their determinations described in 5a. through 5d. no later than thirty (30) days after the county has received the necessary information from the claimant.
 - 7. All identified cases should be flagged in the event of further required action pursuant to a final order in this case.

AVISO IMPORTANTE

A: Todas las personas que reciben Asistencia para Familias con Niños Necesitados (AFDC) o Asistencia para Refugiados.

Si en el futuro usted recibe ingresos de un pago global, es posible que usted pierda su asistencia monetaria federal. Lea este aviso para que sepa acerca del ordenamiento de cantidades globales que resultó de un cambio en la ley.

Ingresos de un pago global es dinero que recibe en una sola ocasión o solamente de vez en cuando. Las cantidades globales de dinero pueden ser beneficios retrasados del Seguro Social, compensación por lesiones de trabajo, cantidades ordenadas por la corte por lesiones personales, premios de la lotería, herencias y otras similares. Ahora hay muy pocas excepciones.

Si usted recibe ingresos de un pago global mientras recibe asistencia, tendrá que vivir de ese dinero en vez de la asistencia monetaria. Entre más reciba, más tiempo estará viviendo de ese dinero. Usted no podrá recibir asistencia monetaria federal aun si usó toda la cantidad global de dinero antes que su asistencia monetaria pueda comenzar otra vez.

El ordenamiento de cantidades globales funciona de la siguiente manera: Dividiremos los ingresos del pago global entre el pago mensual máximo de su familia. Por ejemplo, si usted recibe asistencia para usted mismo(a) y dos niños, y usted recibe una cantidad global de \$6,170 dólares, usted no podrá recibir asistencia monetaria federal durante 10 meses (\$6,170 divididos entre \$617, que es el pago mensual máximo para una familia de tres).

Hay un programa estatal que no sigue la regla de cantidades globales. Si descontinúan su asistencia monetaria en virtud de la regla de cantidades globales y transcurre más de un mes, es posible que este programa le ayude si reune los requisitos de elegibilidad. Sin embargo, bajo este programa, usted puede recibir ayuda monetaria durante tres meses en un año.

Si usted recibe ingresos de un pago global durante un mes en el cual usted no está recibiendo asistencia monetaria, no aplica la regla de cantidades globales. En ese caso, usted puede volver a solicitar asistencia monetaria federal una vez que tenga menos de \$1,000 dólares.

Para evitar problemas, no gaste la cantidad global de dinero hasta que hable con un(a) trabajador(a).

Si tiene preguntas, comuníquese con su trabajador para que le dé más información. También puede ponerse en contacto con su oficina de Asesoría Legal (Legal Aid).

LOST YOUR AID? THEN READ THIS . . .

Did your aid stop because of "lump sum" income?

If so, you may now be able to get cash aid again under a recent court order (**Rutan v. McMahon**). You may be able to get cash aid if you spent some or all of your lump sum money before you got a written notice from the county stopping your aid because of the lump sum rule.

To get cash aid, you must apply and meet with us face to face. Bring this notice with you.

- Please come in and apply.
- Please call for a meeting time.
- Please meet with us on:

Weekday / date / time

If you can't come to the scheduled meeting, please call for another time.

Our phone number is:

Our address is:

¿PERDIÓ SU ASISTENCIA?
ENTONCES LEA ESTO...

¿Paró su ayuda por haber recibido ingresos de un pago global?

Si es así, es posible que ahora pueda recibir asistencia monetaria otra vez bajo una orden reciente de la corte (**Rutan contra McMahon**). Es posible que pueda recibir asistencia monetaria si gastó toda o parte de la cantidad global de dinero antes de recibir una notificación por escrito del condado deteniendo su asistencia por haber aplicado la regla de cantidades globales.

Para recibir asistencia monetaria, debe solitarla y vernos personalmente. Traiga consigo esta notificación.

- Por favor venga y presente una solicitud.
 - Por favor llame para hacer una cita
 - Por favor venga a vernos en:

Día de la semana/fecha/hora

Si no puede venir a la cita que se ha programado,
por favor llame para hacer otra cita.

Nuestro número de teléfono es el:

Nuestra dirección es:

RUTAN v. McMAHON CERTIFICATION

I, _____ state that I received \$ _____ of lump sum income in _____ MONTH _____ YEAR. I had spent some or all of my lump sum income before I got written notice from the county stopping my aid because of the lump sum rule. To the best of my memory, I spent the lump sum money as follows:

I declare under penalty of perjury under the laws of the State of California that the statements I have given on this form are true and correct.

SIGNATURE (OR MARK) OF APPLICANT	DATE SIGNED
SIGNATURE OF WITNESS TO MARK (Interpreter, or person completing form for applicant)	DATE SIGNED

CERTIFICACION DE RUTAN contra McMAHON.

Yo, _____ declaro que he recibido \$ _____ de ingresos de un pago global en _____. He gastado todos o parte de mis ingresos de un pago global antes de recibir una notificación por escrito del condado deteniendo mi asistencia por haber aplicado la regla de cantidades globales. Recordando lo mejor posible, gasté el dinero de ingresos globales de la manera siguiente:

<u>FECHA EN QUE SE GASTÓ</u>	<u>CANTIDAD</u>	<u>PARA</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Declaro bajo pena de perjurio en conformidad con las leyes del estado de California que la declaración que dado en esta forma es verdadera y correcta.

FIRMA (O MARCA) DEL SOLICITANTE

FECHA EN QUE SE FIRMO

FIRMA DEL TESTIGO A LA MARCA (intérprete, u otra persona que completó la forma por el solicitante)

FECHA EN QUE SE FIRMO